"Un-disabled by Covid": Reflections of a (usually disabled) socio-legal scholar

Clare Williams*

We have all been disabled by Covid: routines interrupted, interactions curtailed, access denied. For many, this was new and troubling. For some, though, like me, this was normal life. Charting two years of intermittent lockdowns due to Covid and the remote working practices that emerged, this article chronicles my experiences as a (usually) disabled socio-legal scholar who found themselves included on an equal basis for the first time. Covid leveled the playing field, giving us glimpses into how remote and hybrid working might be harnessed to fully include disabled people in the workplace. Legal research and academia are fields that are generally amenable to remote and hybrid working. And yet, the "back-to-normal" narrative urges a return to the built and social environments that imply "back to exclusion." Additionally, proposals for hybrid or remote working tend to be painted as the choice of the individual—a core neoliberal principle. But for disabled or vulnerable people, an individual choice to work remotely can be neither free nor fair. We risk being segregated once again from society; only this time, the segregation is justified by our individual choice. While disabled communities glimpsed a vision of a more inclusive workplace, narrative trends imply entrenched inequality and the full realization of neoliberal academy.

1. Introduction: Three lessons of Covid

We have all been disabled by Covid: routines interrupted, interactions curtailed, access denied. For many, this was a new and troubling form of existence. For some though, like me, this *was* normal life. As a socio-legal scholar who uses a wheelchair full time, exclusion from academic spaces and from the interactions that went on in those spaces was the norm. And then Covid arrived. Lockdowns made working and socializing from

* ESRC-SeNSS Postdoctoral Research Fellow, Kent Law School, University of Kent, Kent, United Kingdom. Email: C.Williams-678@kent.ac.uk.
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home mandatory and, in the process, disabled the rest of society overnight. This had the ironic impact of leveling the playing field for those of us accustomed to exclusion by the built environment.

The rapid mass digital migration to online meetings, conferences, and events offered a glimpse of a more inclusive society, and a more inclusive academic community. This did not just apply to those with physical impairments, but to those with caring responsibilities and those unable to travel or mix for myriad reasons. Seminars, lectures, and reading groups were suddenly online, for everybody. Interviews, staff meetings, drinks events, and entire conferences were all now online, leveling group experiences and expectations. Of course, virtual interaction is not universally inclusive, and those with limited access to the internet or to the requisite devices struggled, along with those who derived wellbeing through social interaction. But the mandatory virtualization of interactions did not rely on "choice architecture" or legislation to realize inclusion; I did not find myself on a level playing field through any choice I had made.[1]

Covid brought some early lessons. As the United Kingdom went into lockdown in March 2020, the pivot to online teaching created vast amounts of extra work for academics who were now suddenly expected to be experts in digital pedagogy. But solutions were found. Disabled communities watched in amazement as the "reasonable adjustments" requested and denied for decades in higher education were suddenly implemented overnight.[2] Covid's first revelation was that excuses for excluding disabled students had been wholly unfounded. Lesson one, therefore, was that for change to occur, non-disabled communities needed to be affected too.

Disability remains one of the blind spots for the scholarly community.[3] For those with physical impairments working in academia, however, the shift to virtual working was liberating both physically and conceptually: Physically, in removing the need to meticulously plan, navigate, and execute tiring journeys around an exclusionary and inaccessible built environment, I found I could "arrive" at a meeting awake and alert. Conceptually, as nothing more than a disembodied face on a screen, I found that my impairment was no longer visible. In this strange new world of screen-based interactions, where I regained power over the visual framing of any engagement, the visible clues of my disability were masked, leaving my face and speech the only information available to others to form opinions about me.[4] Remote working therefore hid any indicators that might bring prejudice or bias into play. This had two effects. It,

[1] "Choice architecture" references nudge theory, or the field of behavioral economics, where the physical, economic, and social structures in which an individual operates are designed in such a way as to nudge them towards making a particular decision. *See* Richard H. Thaler & Cass R. Sunstein, Nudge: Improving Decisions about Health, Wealth and Happiness (2009).

[2] A "reasonable adjustment" is a change that must be made to reduce disadvantage experienced on grounds of disability.

[3] *See* Nicole Brown & Jennifer Leigh, Ableism in Academia: Theorising Experiences of Disabilities and Chronic Illnesses in Higher Education (2020).

[4] Samaha writes eloquently about visible disability and how videoconferencing can reframe this. *See* Adam M. Samaha, *Opening and Reopening: Dealing with Disability in the Post-Pandemic World*, Slate (July 6, 2011), https://slate.com/technology/2021/07/pandemic-disability-reopening-essay.html.

first, liberated me from the inherited mental models and subconscious bias that society reproduces in its treatment of disabled people, offering a fascinating social experiment into what might now be possible. But, second, it made me deeply uneasy about the differences that became obvious once my disability had been masked. My successes throughout Covid came not despite my impairment, but because nobody knew that I was disabled. And yet success through invisibilizing disability (or through the equal disablement of society) raises morally problematic questions of prejudice and bias, along with historical echoes of the social segregation of the disabled.

As the United Kingdom shifts "back to normal," the opportunities that had become available to participate in academic life on an equal playing field are gradually beginning to slip beyond reach once more. For those with physical impairments or suboptimal immune systems, "back to normal" means little more than "back to exclusion."[5] There are calls for hybrid options to be retained, allowing face-to-face engagements to resume, while retaining the inclusionary virtual aspect for those unable to be physically present. As this article will later explore, we can understand hybrid options as creating a "choice architecture" in which the autonomous individual can determine how they wish to engage.[6] It absolves event organizers of the need to ensure maximum accessibility of the in-person event—after all, there is the virtual alternative. But it elides the problematic context in which these choices are being made, and their effects. Hybrid options are currently presented as the best solution to retain the inclusivity gains made through lockdowns. And yet, in arguing for hybrid and virtual engagement to be retained, I find that I am arguing for a new kind of self-imposed, individual choice-based segregation, where disabled communities can participate in research and teaching by closeting themselves off from society. After all, "individual responsibility" allows the personal choice and freedom to opt not to attend in person, eliding the fact that this is, currently, a choice borne out of necessity rather than convenience. Thus, lesson number two of the pandemic is that inclusion does not always realize equality, and later sections of the paper return to this in relation to current working practices in academia in the United Kingdom. A short word about how this piece is methodological and theoretically framed follows, before turning to lesson three of the pandemic: that disability does not equal vulnerability.

2. Autoethnography and framing

The reflections that follow chronologically document my experiences of being a socio-legal researcher throughout Covid. Building on prior reflective work, it draws on the "ultra-" or "hyper-reflexivity" of autoethnography to "resist[] hegemonic bodies of discourse," offering instead a personal, partial, and subjective account.[7]

[5] *See* Frances Ryan, *Remote Working Has Been Life-Changing for Disabled People, Don't Take It Away Now*, Guardian (June 2, 2021), www.theguardian.com/commentisfree/2021/jun/02/remote-working-disabled-people-back-to-normal-disability-inclusion.

[6] See *supra* note 2.

[7] Clare Williams, *A Visual Autoethnography of a PhD Journey*, 3 Amicus Curiae 95, 96 (2022); Elaine Campbell, *Exploring Autoethnography as a Method and Methodology in Legal Education Research*, 3 Asian J. Legal Educ. 96 (2016); Deborah Reed-Danahay, Auto/Ethnography (1997).

Autoethnography, as both "method and methodology [. . .] uses the researcher's personal experience as data to describe, analyze and understand a cultural experience," and can suffer a reputation for being less objective and less rigorous than other approaches.[8] But this rather misses the point. By creating a "self-narrative that places the self within a social context" and that documents "stories of lived experience in order to amass multi-layered knowledge of a phenomenon," autoethnography offers a unique means of highlighting typically minoritized voices.[9]

Nevertheless, the reflective honesty demanded of autoethnography in writing this article has been personally demanding. For a disabled researcher, some form of "coming out" is required: of revealing the difference between the carefully crafted, professional image cultivated over many years and the "real me." The risks of being perceived as "different," "less able," or "less competent" make autoethnographic writing both uncomfortable and yet even more necessary.[10] Covid demonstrated to me the extent of ableism within the academe; and while the pandemic offered me an opportunity to engage with academia on an equal basis, writing an account that re-declares my disability—that un-invisibilizes that which makes me different—feels counterintuitive.

3. March 2020: "Please don't label me as 'vulnerable' (all of the time)"

Watching the news in early March 2020 at home in London, the writing had been on the wall. Covid case rates were rising exponentially, countries were seeing their health systems overwhelmed, and the UK government seemed wedded to a "herd immunity" strategy.[11] Some two weeks before the UK Prime Minister uttered the word "lockdown," I had already pulled up the drawbridge and begun "shielding."[12] I was lucky; being able to work from home was not a choice available to everyone.

In October 2019, some six months earlier, I had passed my PhD viva without corrections. Since then, I had been applying for a variety of paid roles that interested me and that were, tangentially at least, related to my research while I applied for post-doctoral fellowships. I had, prior to the first lockdown, been to a handful of interviews in London. One interview with an eminent "Disability Confident" thinktank had been held in a rented office space as their office was not wheelchair accessible.[13] It came

[8] *See* Campbell, *supra* note 7, at 96.

[9] *See* Campbell, *supra* note 7, at 98; Reed-Danahay, *supra* note 7.

[10] Odile Rohmer & Eva Louvet, *Implicit Stereotyping against People with Disability*, 21 Group Processes & Intergroup Rel. 127 (2018).

[11] At the start of the pandemic, Sir Patrick Vallence, the government's chief scientific adviser, spoke about "herd immunity." *See* Secunder Kermani, *Coronavirus: Whitty and Vallance Faced "Herd Immunity" Backlash, Emails Show* (Sept. 23, 2020), www.bbc.co.uk/news/uk-politics-54252272.

[12] The shielding program was introduced to protect those at highest risk, identified as "clinically extremely vulnerable." It was officially ended on September 15, 2021.

[13] The "Disability Confident" scheme advises employers on disability issues and awards them a "tick" to display. *See* Dep't for Work & Pensions, *Disability Confident Employer Scheme*, Gov.uk (last updated Sept. 15, 2021), www.gov.uk/government/collections/disability-confident-campaign.

as no surprise that I was not offered that role. What had become clear was that, regardless of my performance or suitability for a job, the first impression I made on any panel was of "disability." My wheelchair was my opening gambit before any words were spoken—a situation beyond my control. Disabled people are generally viewed as less competent in a work context, regardless of their qualifications or experience; and while I tried to persuade myself otherwise, it was becoming obvious that my disability was a hindrance in the job market.[14] The dislike and devaluation of disabled people in a work context means that "policies promoting equal rights and opportunities to persons with disability fail to ensure social participation and especially employment among these persons."[15] I was experiencing first-hand why the disability employment and pay gaps are so intransigent.

In mid-March, I received a letter from the Secretary of State for Health identifying me as "clinically extremely vulnerable" (CEV) and advising me to shield. The letter extended to five or so pages of information about how I should navigate a strict social segregation, detailing delivery schemes with supermarkets, ideas for sharing cooking and washing spaces in the home, and strict guidance to work from home. All social engagements were to be postponed indefinitely, unless they could take place online. But vulnerability is a problematic term. It is both relative ("vulnerable compared to what?") and relational (describing the individual's relationship with something or someone). The term is also almost universally disliked by those to whom it is attached.[16] Nevertheless, it became a key Covid concept, segregating out those who are "clinically extremely vulnerable" and those who are merely "vulnerable" from the rest.[17] While the letter was intended to reassure me, it had the opposite effect of creating new rules of social engagement that even the government itself was not able to abide by.[18] And yet the rules of this game were intricate but crucial: the prize here was staying alive.

[14] *See* Rohmer & Louvet, *supra* note 10, at 10.

[15] *See id.* at 11. In the United Kingdom the disability employment gap in the second quarter of 2021 was 28.4%, while the disability pay gap was 19.6%. One in five of the population are estimated to be disabled. *See* Dep't for Work & Pensions, *The Employment of Disabled People 2021*, Gov.uk (last updated Feb. 11, 2022), www.gov.uk/government/statistics/the-employment-of-disabled-people-2021/the-employment-of-disabled-people-2021; Trades Union Cong., *Disability Pay and Employment Gaps* (Nov. 12, 2020), www.tuc.org.uk/research-analysis/reports/disability-pay-and-employment-gaps.

[16] The concept of "vulnerable groups," as more than "mere rhetorical flourish," has been developed by the European Court of Human Rights, allowing the Court to address different aspects of inequality in a more substantive manner. While this jurisprudence is acknowledged, the term "vulnerable" here is used to distinguish populations by the UK government in 2020–21. *See* Lourdes Peroni & Alexandra Timmer, *Vulnerable Groups: The Promise of an Emerging Concept in European Human Rights Convention Law*, 11 Int'l J. Const. L. 1056 (2013). The authors also note that the term stigmatizes, essentializes, and stereotypes those cohorts to which it is applied.

[17] Specific definitions have been set out on the government website. *See* Dep't Health & Soc. Care, *Guidance for People Previously Considered Clinically Extremely Vulnerable from COVID-19*, Gov.uk (last updated Apr. 1, 2022), www.gov.uk/government/publications/guidance-on-shielding-and-protecting-extremely-vulnerable-persons-from-covid-19/guidance-on-shielding-and-protecting-extremely-vulnerable-persons-from-covid-19.

[18] The mass discharge of elderly patients from hospitals into care homes without a Covid test saw the virus spread unchecked.

In wider discourse throughout the pandemic, disability and vulnerability were frequently conflated. Yet we need only to think of Paralympians to realize that the loss of a limb need not entail vulnerability to a virus. It is also possible to be vulnerable to Covid without being disabled: those with low immunity might become more unwell with Covid, and yet are not disabled by their environment. However, if we include Covid as one aspect of the environment, and we adopt the social model that understands disability arising from interaction with an inadequate or exclusionary environment, we might state that the clinically vulnerable are disabled by Covid.[19] Nevertheless, assuming that all disabled people are vulnerable, or vice versa, reproduces assumptions of dependency that construct daily social disablement.

4. May 2020: "Actually, Covid doesn't change much for me. . ."

Two weeks after I began my own isolation, the government announced the first lockdown in the United Kindom. Working from home for those able to do so was now mandatory.[20] I received an invitation to interview for a postdoctoral position, and was surprised and excited to see that interviews would be online, both for candidates and the panel. This would be my first interview where my wheelchair would not be the first impression I made. I, like everyone else, would be no more than a "talking head": a disembodied, avatar-like portrayal of my real self, devoid of physical context. My voice and facial expressions were my only tools to engage, explain, and excite the panel about my research. Perhaps it was this knowledge that allowed me to relax. Or perhaps it was the masking of disability and the elimination of possible biases that determined the outcome. Less than twenty-four hours later I was offered the funding.

Unlike most other projects funded that year, I needed no adjustments or accommodations. After all, my research project had been designed with confinement in mind: I had pre-pandemic proofed my proposal, and I duly started the role on January 1, 2021.

5. January 2021: "But how do I know who, what, where, or when?"

The first of January came and went, simultaneously momentous and underwhelming. I was still firmly, physically, in my bedroom at home; the only change was the symbolic renaming of "bedroom" to "office." I gradually acquired IT access, an email address,

[19] *See, e.g.*, Anna Lawson & Angharad E. Beckett, *The Social and Human Rights Models of Disability: Towards a Complementary Thesis*, 25 Int'l J. Hum. Rts. 348 (2021); Robert Mcruer, Crip Theory: Cultural Signs of Queerness and Disability (2006).

[20] *See* Daniel Ferguson, Jennifer Brown, & Sarah Barber, *Coronavirus: Lockdown Laws*, Commons Library (July 14, 2022), https://researchbriefings.files.parliament.uk/documents/CBP-8875/CBP-8875.pdf. *See* Carl Baker, *Coronavirus: A History of English Lockdown Laws*, Commons Library (Dec. 22, 2021), https://commonslibrary.parliament.uk/research-briefings/cbp-9068/.

and the promise of office space when I could finally get to campus. Yet I had no idea who was whom, and what was where. It took months to ascertain which meetings I should attend, which I could attend, and which I probably should not attend. I am still learning. One year on, and I have yet to step foot, or wheel, on campus.

As engagements have all been online, though, I have joined as many as I have wanted—far more, in fact, than if I had needed to attend in person. Most things in life are complicated by physical impairment, and travel is just one, requiring huge expenditures of physical, mental, and emotional labor to navigate inaccessible cities, buildings, and transport links. Not needing to travel was a bonus. Being strictly prohibited from traveling with the rest of society was a gift, and meant that I could channel this extra energy into my work.

Virtual and hybrid events did not just increase access for those with physical impairments. Those with caring responsibilities, either for young children or elderly relatives, and those in geographical locations where travel is problematic, also reported greater inclusion.[21] Virtual conferences in 2021 not only embodied a pioneering spirit of exploration and solidarity, but saw increased attendance levels and diversity. Nevertheless, the collective voyage into the unknown that characterized the pivot to virtual engagement has not lasted. In the United Kingdom, in 2022, the narrative that the pandemic is over is accompanied by entreaties urging a return to the office and the classroom. Events are drifting back to in-person, and it is unclear how long the academic community will tolerate the extra work required to stage a hybrid event for the beneficial inclusion of a few.

6. July 2021: "Is my life really worth less than yours?"

Fourteen months into the pandemic, I was feeling pretty confident. Despite never having met my colleagues, I had collaborated on events, papers, and funding bids. In the United Kingdom, the summer of 2021 marked a lull in Covid. We were "between" waves, and although the country was battling a "pingdemic," the over-optimistically bombastic narratives of the tabloids even declared that Covid was no longer society's biggest concern.[22] The focus shifted to the economy, and businesses began to demand a return to the office. Mask wearing was no longer mandatory, and the tribal use of masks fell in accordance with their potential as virtue signalling tools.[23] A drive to

[21] Observation based on anecdotal discussions with socio-legal scholars around the world at events I co-organized and co-hosted in 2021.

[22] The "pingdemic" was caused by the National Health Service (NHS) phone app telling people that they had been near another person who had tested positive and therefore needed to isolate. *See* Ethan Ennals, *Is It Time to Stop Obsessing over Covid Figures? Statistics Reveal Virus Is NOT the Biggest Killer—With Heart Disease, Dementia and Cancer Each Claiming Four Times as Many Lives in an Average Week Last Month*, MailOnline (Aug. 28, 2021), https://dailymail.co.uk/health/article-9935663/Is-time-stop-obsessing-Covid-figures-Statistics-reveal-coronavirus-NOT-biggest-killer.html.

[23] Nattavudh Powdthavee, Yohanes E. Riyanto, Erwin C.L. Wong, Jonathan X.W. Yeo, & Qi Yu Chan, *When Face Masks Signal Social Identity: Explaining the Deep Face-Mask Divide during the Covid-19 Pandemic*, Plos ONE (June 10, 2021), https://doi.org/10.1371/journal.pone.0253195.

vaccinate the country was hailed as the key weapon in the war on Covid. There was little thought spared for those with suboptimal immune systems for whom the vaccine was unlikely to offer much protection, or for those with comorbidities.[24] As transmission rates increased and worrying levels of asymptomatic Covid emerged, individual responsibility once again became the concept *du jour*. The shielding programme had officially been ended by the government, and those of us deemed "vulnerable" were, effectively, on our own.

In prioritizing the economy and hailing the vaccination programme, the narrative needed to reframe the country's Covid death statistics.[25] Now, those dying were either unvaccinated (and therefore victims of their own poor choices) or were already ill with multiple comorbidities (and therefore victims of their own poor circumstances). For the majority, this "othering" of the sick proved that there was nothing to fear from Covid. Yet in comforting the majority, this framing had the effect of devaluing the lives and deaths of those with preexisting medical conditions, those identified as disabled or vulnerable. While disappointing, this narrative was unsurprising. More troubling, though, were statements confirming the acceptability of this viewpoint by those in positions of power: those with the authority to shape not just public opinion but the very law itself.

Famously opposed to the lockdowns, Lord Sumption, former Justice of the UK Supreme Court, made headlines for remarks that "challenged rationales that hold that all lives are of equal value."[26] His statements that some lives were "less valuable" sat strikingly at odds with one of his earlier judgments in which the Supreme Court was asked to weigh up "safety and liberty" and "the value of life."[27] In that case, "Lord Sumption needlessly advanced moral arguments that prioritise the principle of the sanctity of life over autonomy, and which subjugate a defence of liberty to an imperative to protect people who might be considered vulnerable."[28] The irreconcilability of these positions leaves us to conclude that either Lord Sumption suffered an epistemological break in the intervening years, or that, briefly in 2021, the mask slipped. As one of those with multiple comorbidities, it was difficult not to take personally the implication that my life, should it be ended by Covid, was somehow lesser.

7. November 2021: "But I want to be included on an equal basis"

This article has already noted the unhappy conflation of disability with vulnerability in Covid narratives, and while the two can coincide, one should not be taken as a proxy for the other. Those with disabilities are excluded by the built and the social

[24] A comorbidity is defined as the simultaneous presence of two or more diseases in the patient.

[25] *See* Ennals, *supra* note 22.

[26] John Coggon, *Lord Sumption and the Values of Life, Liberty, and Security: Before and Since the Covid-19 Outbreak*, J. Medical Ethics (July 2021), https://doi.org/10.1136/medethics-2021-107332.

[27] Clea Skopeliti, *Lord Sumption Tells Stage 4 Cancer Patient Her Life is "Less Valuable,"* Guardian (Jan. 17, 2021), www.theguardian.com/law/2021/jan/17/jonathan-sumption-cancer-patient-life-less-valuable-others.

[28] *See* Coggon, *supra* note 26, at 1. *See also* R (on the application of Nicklinson and another) (AP) v. Ministry of Justice [2014] UKSC 38.

environments. Those who are vulnerable self-exclude to reduce the possibility of contracting Covid. Nevertheless, the end result is the same, and raises a more crucial point about inclusion and equality in higher education.

Legal academia is a sector that can be amenable to remote and hybrid working practices.[29] Challenging the "back to normal" and "return to the office" narratives, reports by Disabled People's Organizations (DPOs) and bodies representing disabled employees in tertiary education echo the World Health Organization (WHO) recommendations, advising employers to "implement flexible-working arrangements that allow people with disability to telework."[30] While the National Association of Disabled Staff Networks (NADSN) warns that unequal treatment of disabled and non-disabled employees by higher education institutions might exacerbate entrenched ableism, a belief persists that those who declare a disability should be enabled to continue working from home wherever possible.[31] Much of the literature responding to the needs of disabled and vulnerable communities assumes that the "crisis can be turned into an opportunity to reappraise remote working for staff *who wish to do so*."[32]

This is problematic on two grounds. First, it requires those staff to identify as disabled or vulnerable, inviting the stigmas outlined above. Second, it relies on their individual choice to work from home. This asks them to self-segregate, and justifies the invisibilization of this cohort on the grounds of their individual choice to work remotely. A reliance on individual choice, a core concept of neoliberalism, is both empirically and normatively problematic.

While the retention of remote or hybrid working practices has, for some, been seen as a good-news story, inclusion, in the neoliberal academy, is not, and will not necessarily be, equated with equality. Empirical research shows that proximity bias and a culture of presenteeism results in promotions and pay rises being awarded to those who are seen to be working.[33] Those who choose to work remotely, despite their equal productivity, lose out. Unsurprisingly, these communities tend to be women with caring responsibilities, the socio-economically disadvantaged, and those with disabilities. Hybrid working, then, offers inclusion but not equality or fairness. It makes us invisible; placing us out of sight, and out of mind.

[29] Susan Lund, Anu Adgavkar, James Manyika, & Sven Smit, *What's Next for Remote Work: An Analysis of 2,000 Tasks, 800 Jobs, and Nine Countries*, McKinsey & Co. (Nov. 23, 2020), www.mckinsey.com/featured-insights/future-of-work/whats-next-for-remote-work-an-analysis-of-2000-tasks-800-jobs-and-nine-countries.

[30] World Health Org., Disability Considerations During the Covid-19 Outbreak, at 14, Doc. No. WHO/2019-nCoV/Disability/2020.1 (Mar. 26, 2020), https://apps.who.int/iris/rest/bitstreams/1277373/retrieve.

[31] Nicole Brown, Jacqui Nicholson, Fiona Kumari Campbell, Mona Patel, Richard Knight, & Stuart Moore, *COVID-19 Pist-Lockdown: Perspectives, Implications and Strategies for Disabled Staff*, 15 Alter Eur. J. Disability Res. 265 (2021). Home working options have been accompanied by calls for the employer to be responsible for providing the necessary equipment as a reasonable adjustment under the Equality Act 2010, although some estimates note that two-thirds of requests for "reasonable adjustments" in the workplace are turned down.

[32] *See* Brown, *supra* note 3, at 264 (emphasis added).

[33] Mark Johanson, *Hybrid Work: How "Proximity Bias" Can Lead to Favouritism*, BBC (Aug. 9, 2021), www.bbc.com/worklife/article/20210804-hybrid-work-how-proximity-bias-can-lead-to-favouritism; Kimberley D. Elsbach, Dan M. Cable, & Jeffrey W. Sherman, *How Passive "Face Time" Affects Perceptions of Employees: Evidence of Spontaneous Trait Inference*, 63 Hum. Rel. 735 (2010).

But the choice element also raises normative issues. In maintaining remote working for staff "who wish to do so," we are constructing a choice architecture in which the individual is invited to "choose" to work in a situation of co-presence and risk their health, or to "choose" to self-segregate and work safely but remotely. This places the burden on the individual to remove themselves from society for their own convenience and/or protection. This choice also places pressure on disabled communities or those identified as vulnerable to "not be a problem" and not demand that the built and social environments are made more inclusive and accessible. In so doing, it also absolves wider society from the responsibility to include these communities: after all, their self-segregation is the result of their own choices. We might term this the full realization of the neoliberal academe in the individualized segregation and the invisibilization of disabled and vulnerable communities.

Visibility is one of the most potent tools available to those with disabilities seeking to change the built and social environment. In self-segregating by choosing remote work so as to be included in the workplace, disabled communities lose the one tool available to bring about change in the physical and mental structures that reproduce disablement throughout society: namely, the discomfort that arises when we see a wheelchair user excluded from a building because there is no ramp, for example. Uncomfortable engagement with a non-accessible environment—the very definition of disability—is an effective tool to bring about change that might be lost.[34] The troubling aspect here is the justification of such segregation as the choice of the individual, absolving wider society of responsibility to keep doing the work necessary to include those with disabilities.

8. January 2022: "[Taps the microphone. . .] Can you hear me?"

On January 19, 2022, the government announced that all "Plan B" measures would end.[35] Instructions to higher education institutions (HEIs) were that "there are no COVID restrictions that apply to Higher Education," meaning that "they should ensure that they deliver face-to-face teaching without restrictions."[36] The government "is no longer advising people to work from home if they can."[37] However, HEIs are expected "to consider and comply" with their legal responsibilities under the Health and Safety at Work Act 1974 and with the Equalities Act 2010. The University and College

[34] Drawing on the social model of disability, impairment is understood as residing in the body, disability is understood as resulting from interaction with an inadequate environment, and handicap is understood as the disadvantage that results from that interaction.

[35] Dep't for Educ., *Higher Education Covid-19 Operational Guidance* (2022), now withdrawn but still available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1048605/180122_Higher_education_COVID-19_operational_guidance.pdf (last visited August 11 2022).

[36] *See id.* at 4.

[37] *Id.*

Union has called for "the vulnerable" to be able to work remotely, while the National Education Union has called both for individual risk assessments and for CEV staff to be allowed to work from home "during this period of uncertainty."[38] Despite this, the broader narrative in the United Kingdom, now generally assuming the pandemic to be over, vilifies those who seek to work from home as "lazy" or "unproductive," calling them "bad parents" and even drawing comparisons with "benefit scroungers."[39]

While employees are urged back to the office, there is a consensus that giving disabled communities and those identified as vulnerable the choice to continue working from home is somehow progress. And yet, we are only "virtually" in the workplace. We may have been offered inclusion, but we have not been offered equality. Nor fairness. And while we are cloistered away, we are not able to challenge real world institutions that continue our disablement. The narrative that the lives of disabled communities were worth less throughout Covid was the verbalisation of an undercurrent that many of us were familiar with prior to the pandemic. And yet, Covid offered a startling social experiment into disability-inclusion best practice through the shared use of remote engagement, showing what might be possible. It remains to be seen whether the inclusion glimpsed by disabled communities throughout the pandemic can offer lasting change.

[38] Simon Baker, *UCU Calls for Vulnerable to Work Remotely as Omicron Surges*, Times Higher Educ. (Jan. 12, 2022), www.timeshighereducation.com/news/ucu-calls-vulnerable-work-remotely-omicron-surges; *Coronavirus: Medically Vulnerable and Higher Risk Groups*, Nat'l Educ. Union (Mar. 25, 2022), https://neu.org.uk/advice/high-risk-groups.

[39] Monica Greep, *Is Working from Home Bad Parenting? Businesswoman Claims Not Going into the Office Sets the Wrong Example for Children and Likens It to Claiming Benefits*, MailOnline (Oct. 25, 2021), www.dailymail.co.uk/femail/article-10127511/Businesswoman-branded-offensive-employees-setting-bad-example-home-working.html; Nina Lloyd, *Work from Home Parents Told They Set Bad Example Says Businesswoman Tina Knight*, Times (London) (Oct. 26, 2021), www.thetimes.co.uk/article/f7e31e7c-35cf-11ec-8ef4-8e6db1a4b82a.